

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TEXAS
 BEAUMONT DIVISION

MARCUS HAMILTON	§	
VS.	§	CIVIL ACTION NO. 1:24cv356
STATE OF TEXAS, ET AL.	§	

ORDER OVERRULING OBJECTIONS AND ADOPTING
 THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Marcus Anthony Hamilton, proceeding *pro se*, brought this civil rights lawsuit pursuant to 42 U.S.C. § 1983 against the State of Texas, Judge Stevens, a state district judge, David Eckhart, an assistant district attorney, and Todd LeBlanc, attorney who represents plaintiff in connection with a criminal charge. The Court previously referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the case be dismissed for failure to state a claim upon which relief may be granted and for seeking monetary relief from defendants immune from such relief.

The Court has received the Report and Recommendation of United States, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation.

The Magistrate Judge concluded the State of Texas was entitled to immunity under the Eleventh Amendment to the Constitution. The Magistrate Judge further concluded the claims against defendants Stevens and Eckhart should be dismissed based on absolute judicial and absolute prosecutorial immunity. Finally, the Magistrate Judge concluded the claim against defendant LeBlanc should be dismissed because plaintiff's allegations failed to demonstrate he acted under color of state law.

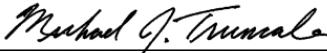
The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes plaintiff's objections lack merit. The conclusions of the Magistrate Judge are based on well-established law and the Court agrees with the conclusions.

Plaintiff has also filed a motion for leave to file an amended complaint [Dkt. 7]. Plaintiff states he wishes to amend his complaint to add a claim for injunctive relief. Plaintiff does not describe the injunctive relief sought. The court will assume he seeks an order setting aside his conviction. However, this type of relief may only be awarded via a petition for writ of habeas corpus. *Preiser v. Rodriguez*, 411 U.S. 475, 493 (1973). Plaintiff remains free to file a petition for writ of habeas corpus challenging his conviction. As allowing plaintiff to amend his pleading to add a claim for injunctive relief would be futile, the motion to amend [Dkt. 7] is DENIED.

ORDER

Accordingly, plaintiff's objections [Dkt. 5] are OVERRULED. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge [Dkt. 4] is ADOPTED as the opinion of the Court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

SIGNED this 9th day of December, 2024.



Michael J. Truncale
United States District Judge